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MEMORANDUM FOR THE RECORD

SUBJECT: Hearing on CIA Statutory Inspector General, S. 1818

1. On 1 March 1988, there was an open hearing before the Senate Select Committee on Intelligence with respect to the establishment of a statutory inspector general at the Agency. Appearing were Charles Bowsher, Comptroller General; Sherman Funk, Department of State Inspector General; June Brown, Department of Defense Inspector General; and the Director of Central Intelligence. The statements of State, Bowsher and DoD are attached. Members present were Senators Boren and Specter, although Senator Warner made a brief appearance.

2. In response to questioning by Senator Boren, the following points were made. The DoD IG has full access to anything, including highly compartmented information. The State IG operates on a basis of strict need-to-know. DoD has full access to Agency information when involved in cooperative activities. State limits dissemination of IG reports regarding covert activities conducted according to findings to the intelligence committees; DoD does the same. State never discloses source information to the Hill. Bowsher believes either an outside or inside person could be CIA IG; the key is independence and attitude. Funk said a CIA statutory IG should be someone with an intelligence background; Brown agreed. Bowsher said this was helpful, but not essential.

3. Senator Specter asked about DoD's experience in auditing DIA; DoD has had no problems. The people designated for the job observe strict security rules and observe usual IG procedures. There are no problems regarding NSA. The State IG has had no problems with IG functions vis-a-vis highly classified intelligence information. DoD has never prohibited audits. Brown admitted that a statutory IG is troublesome for the Agency,

because IGs report to all Members, not just to Members of the intelligence committees. S. 1818 does not preclude this from happening and S. Res. 400 is not adequate protection. If there is a statutory IG established at CIA, the language should be modified to remedy this problem. The DoD program has been successful. A statutory IG forces responsibility in the IG, the head of the agency and Congress. Bowsher said that the DCI is putting in a good program, but questions whether it will be there five or 10 years from now.

4. Senator Boren asked whether the IG staff is subject to the polygraph. None is at State, but the personnel have appropriate clearances. DoD is considering establishing the polygraph for intelligence people, to be renewed every five years; there is no polygraph now.

5. Specter is concerned about a non-independent IG returning to the Agency ranks. He asked about the cost-effectiveness of the group. Bowsher said that the IGs more than pay for themselves. At CIA, much of their effort would be spent on the Agency's more costly programs. A few IG offices are understaffed, such as NASA.

6. Senator Boren asked the DCI to elaborate on the difference between access to NSA and DIA material and access to covert action information. The DCI explained how the IG law emphasizes fraud, waste and abuse for DoD and that the Secretary of Defense has control of the IG. The Assistant to the Secretary has control of sensitive information. However, the IG is not involved in the valuation of sensitive and management issues. With State, the DCI only knows that INR information supplied by the Agency is limited. State is not an intelligence-gathering Agency like CIA. There is a difference in the relationships with foreign liaison and nationals, both in magnitude and in type.

7. Illegal intelligence activity is reported to the IOB and to the oversight committees. The DCI never thought he had discretion with respect to what was reported; he said he is held accountable to report the information. He would be happy to work out some timeframe for reporting; he has been "struggling" with this matter. Senator Boren said that it is important to have certain set procedures for sending information to the two intelligence committees.

8. Senator Specter asked if there were any real difference between CIA and DIA. His memories are "fresh" regarding a DCI who exercised discretion not to forward information to the committees; his concerns go beyond the personality of the DCI. Judge Webster stated that the DCI has certain specific statutory obligations to Congress. The designation of a statutory IG does not give any more real assurance regarding detecting wrongdoing

and reporting obligations than is now one's right to expect from CIA. Senator Specter said that the "right to expect" is only as good as the DCI. Further, the political appointment process brought in Judge Webster. The DCI responded that this process is needed for agency heads, but in setting up the CIA, Congress decided against having more than two presidential appointees.


9. Senator Specter said that the Iran-contra Committees have gone into this issue in great depth and recommended a CIA statutory IG confirmed by the Senate. The DCI said that Iran-contra was an unusual situation. He is not aware that the statutory IGs produced any report similar to that produced by the CIA IG regarding propriety. Senator Specter asked if the DCI did not conclude that the Agency's IG report on Iran-contra was inadequate. With regard to the sale of arms to Iran, it was quite good. There were pitfalls regarding the investigation of the contra issue. The practices have been corrected and would not be alleviated by appointing a statutory IG.

10. Senator Specter said that the Iran-contra committees go to the issue of independence. With a DCI like Judge Webster, there is no problem. The DCI said that it is important that the IG has independence; he is obligated to make reports to the DCI, who is obligated to report illegalities to Congress. Senator Specter noted that the bill allows the DCI to stop an investigation, but he must report such action to the oversight committees. The DCI says the bill invites more intrusion into the workings of the Agency. The question is whether the IG works for him or for Congress. Senator Specter asked whether deleting the "and otherwise" language with respect to keeping Congress informed in accordance with subsection 8 would help. The DCI said that it would be an improvement, but would still pose a problem. The DCI wants the IG to make him aware of the problem and allow the DCI to report to Congress. Senator Specter said this is a problem if there is a disagreement between the DCI and the IG. The DCI said he and the senator have a different view of statutory IGs in sensitive places. The senator is prepared to modify bill so the independent IG does not go to the committees before going to the DCI.

11. It is important to the DCI to select his own IG. He needs his own IG in a nonpolitical, nonpolicymaking agency. Senator Specter said he would have that choice. The presidential appointee process is the best selection process had.

12. The DCI believes he needs an IG badly; he depends on him enormously. IGs at most other departments deal almost entirely with the expenditure of funds. At CIA, he deals day-to-day with sensitive information. The DCI has serious doubts about the quality of cooperation an outside IG would get.

13. Senator Boren said they would think about staying within the current system, but putting some statutory language in place to perhaps codify this system. His view is between Senator Specter's and having no statutory change at all. He said he has due regard for the sensitivity of dealing with other countries and welcomes the DCI's additional thoughts. He indicated markup would take place as soon as possible.


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Attachments

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